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COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

COMMUNITY YOUTH ATHLETIC
CENTER,

Petitioner,

v.

THE SUPERIOR COURT OF SAN
DIEGO COUNTY,

Respondent;

CITY OF NATIONAL CITY, et al.,

Real Parties in Interest.

D052630

(San Diego County Super. Ct.
No. 37-2007-00076404-CU-EI-SC)

Proceedings in mandate after the superior court granted judgment on the pleadings, William S. Cannon, Judge. Petition granted.

Community Youth Athletic Center (CYAC) sued the City of National City and its Community Development Commission (the City) to challenge the validity of the City's

ordinance that amends a 1995 redevelopment plan, by bringing this "reverse validation" action. (Code Civ. Proc., § 863 [part of the Validation Act, § 860 et seq.]; Health & Saf. Code, § 33000 et seq., the Community Redevelopment Law.) This court recently issued a published opinion in which we ordered the trial court to set aside the judgment on the pleadings it granted as to the first six causes of action in the complaint. Effectively, our decision permitted republication of the summons for the entire complaint, in compliance with the good cause requirements of Code of Civil Procedure section 863. (*Community Youth Athletic Center v. City of National City*, 2009 Cal.App. LEXIS 66 (prior opn.).)

In its seventh cause of action, CYAC seeks to compel the City to disclose under the California Public Records Act (the Act) (Gov. Code,¹ § 6250 et seq.) certain documents and data pertaining to these redevelopment and eminent domain proceedings. This petition was filed in conjunction with the appeal from CYAC's other causes of action, and separately addresses the request to publish the summons as to the public records requests. CYAC seeks a writ of mandate to compel the superior court to enter a new order denying the judgment on the pleadings regarding the seventh cause of action, thus effectively allowing republication to proceed on all of the claims. We issued an order to show cause and received further briefing. Oral argument has been waived.

Because of the manner in which the interrelated causes of action have been pled in CYAC's challenge to the ordinance, we now grant the petition to clarify that the republication order applies to this claim as well, for the same reasons stated in our prior

¹ Statutory references are to the Government Code unless otherwise specified.

opinion and as adapted here. For purposes of completing service by publication only, we conclude the trial court erred when applying the standards of the Validation Act to this public records request, and it must enter a new order denying judgment on the pleadings. To the extent republication of the summons for the entire complaint has already been accomplished, no further publication need be ordered, and the trial court will be directed to oversee the publication process consistent with the views in our prior opinion.

DISCUSSION

I

PRIOR OPINION

In CYAC's appeal of the judgment on the pleadings, which terminated most of its action challenging the City's Ordinance No. 2007-2295 (the ordinance), there was no need to address the merits of the case, and we did not do so. That ordinance extended the time period for treating approximately 700 parcels of real property, including that owned by CYAC, as blighted and potentially allowing eminent domain takings of them. The complaint alleges the procedures followed by the City in this respect are not supported by the law or the facts, and seeks relief under several theories, including section 6258 of the Act.

In our prior opinion, we concluded it was error to treat all the claims pled as related to the validity of the ordinance such that the strict service requirements of the Validation Act were deemed to bar the complaint. Instead, the trial court should have ruled that good cause for relief from noncompliance had been shown. We did not resolve the separate petition which is now before us.

II

STATUTORY STANDARDS; ANALYSIS

A superior court order directing disclosure of public records held by a public agency "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ." (§ 6259, subd. (c); *Powers v. City of Richmond* (1995) 10 Cal.4th 85, 115.) Appellate review of the order is "independent on issues of law, and follows the substantial evidence test with respect to any issues of fact. [Citation.]" (*City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1416.)

"Pursuant to section 6259, subdivision (c), an order of the trial court under the [Act], which either directs disclosure of records by a public official or supports the official's refusal to disclose records, is immediately reviewable by petition to the appellate court for issuance of an extraordinary writ. . . . The standard for review of the order is "an independent review of the trial court's ruling; factual findings made by the trial court will be upheld if based on substantial evidence." ' [Citation.] In contrast, the interpretation of the [Act] and its application to undisputed facts present questions of law subject to de novo appellate review." (*CBS Broadcasting Inc. v. Superior Court* (2001) 91 Cal.App.4th 892, 905-906.)

The Act sets forth a policy of broad disclosure of documents in the possession of public agencies and provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

(§ 6250.) To implement that right, section 6253, subdivision (a) provides that "every person has a right to inspect any public record," subject only to the express limitations contained elsewhere in the Act.

The Act defines "public record" as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency." (§ 6252, subd. (e).) "The definition is broad and ' ' 'intended to cover every conceivable kind of record that is involved in the governmental process[.]' " ' ' " (*Coronado Police Officers Assn. v. Carroll* (2003) 106 Cal.App.4th 1001, 1006.) "[A]ll public records are subject to disclosure unless the Legislature has expressly provided to the contrary." (*Williams v. Superior Court* (1993) 5 Cal.4th 337, 346.)

At the trial court level, the judgment on the pleadings on the public records requests did not reach the merits of the requests, nor interpret the Act with respect to the propriety of the information sought to be disclosed. The parties have briefed several substantive issues about the type of data that must be disclosed in the redevelopment context, the extent of any exhaustion of remedies that should be completed, and the factual basis for the claims. However, those issues have not been litigated in the trial court.

Because of the conclusions we reached in the related appeal, regarding the good cause provisions of the Validation Act, and because of the broad scope of the claims made by CYAC, the merits of the arguments concerning the applicability of the Act need not be addressed at this time. We do not decide whether plaintiff has adequately showed an entitlement to relief under the Act, but instead, upon further examination of the

pleadings in this matter, conclude that all the causes of action should be treated alike with respect to the standards for a good cause interpretation of section 863. (*City of Ontario v. Superior Court* (1970) 2 Cal.3d 335, 347.) At oral argument in the prior appeal, the relationship of this writ petition to those issues was discussed, and the parties were made aware that republication of the entire complaint was an available remedy, and our opinion required the trial court to allow that to occur.

Since a judgment on the pleadings addresses issues of law, this court could, in theory, choose to resolve various remaining legal questions regarding the interrelationship of the Act and the Validation Act, on a de novo basis in this writ proceeding. However, the better approach is to allow the parties to pursue appropriate further proceedings in the trial court, following the completion of republication of the summons, to address any questions about the applicability of the Act in this factual and legal context.

At this time, we determine only that the order granting judgment on the pleadings must be vacated and the trial court must be directed to enter a new order denying the motion with respect to the seventh cause of action, and the matter shall be returned to the trial court for evaluation of the status of the republication process. To the extent that process was pursued or completed, it need not be repeated if it adequately addressed the public records claim, and the trial court will be directed to oversee the publication process, consistent with the views in our prior opinion.

DISPOSITION

Let a writ of mandate issue requiring the trial court to set aside the order granting judgment on the pleadings as to the seventh cause of action, and to enter a new order that will deny the motion and allow for any necessary supervision of republication of the summons, consistent with the views expressed in our prior opinion. Each party shall bear its own costs in this writ proceeding.

HUFFMAN, J.

WE CONCUR:

McCONNELL, P. J.

McINTYRE, J.